

1 COOLEY GODWARD KRONISH LLP
2 STEPHEN C. NEAL (170085) (sneal@cooley.com)
3 JAMES DONATO (146140) (jdonato@cooley.com)
4 JOHN C. DWYER (136533) (dwyerjc@cooley.com)
5 JEFFREY M. GUTKIN (216083) (jgutkin@cooley.com)
101 California Street, 5th Floor
San Francisco, CA 94111-5800
Telephone: (415) 693-2000
Facsimile: (415) 693-2222

6 Attorneys for Defendant
7 NVIDIA CORPORATION

8
9
10 UNITED STATES DISTRICT COURT
11
12 NORTHERN DISTRICT OF CALIFORNIA

13 TRONG NGUYEN, on behalf of
14 himself and all others similarly situated,
15 Plaintiff,

16 v.
17 NVIDIA CORPORATION; ATI
18 TECHNOLOGIES, INC.; and
19 ADVANCED MICRO DEVICES, INC.,
20 Defendants.

21 Case No. C-06-07418 EDL

22 **CLASS ACTION**

23 **STIPULATED REQUEST TO CONTINUE
24 INITIAL CASE MANAGEMENT
25 CONFERENCE AND ADR DEADLINES;
26 PROPOSED ORDER**

27 **JURY TRIAL DEMANDED**

28 Plaintiff Trong Nguyen (“Plaintiff”) and Defendants Nvidia Corporation (“Nvidia”), ATI
29 Technologies, Inc. and Advanced Micro Devices, Inc. (collectively “AMD”) hereby jointly
30 request the Court to continue the initial case management conference and related deadlines in this
31 action as follows.

32 1. On December 4, 2006, Plaintiff filed the complaint in this action (“Complaint”),
33 which alleges claims under Section 1 of the Sherman Act, 15 U.S.C. § 1, and under state antitrust
34 and consumer protection laws. Plaintiff styled the Complaint as a putative class action.

35
36
37
38

1 2. As of the date of this Stipulation, at least 23 other complaints have been filed in
 2 this and other judicial districts. All of these complaints also allege federal and/or state law
 3 antitrust claims against Nvidia and AMD and are styled as putative class actions.

4 3. On December 8, 2006, Plaintiff (in conjunction with other plaintiffs with actions
 5 pending in this district) filed a motion before the Judicial Panel on Multidistrict Litigation
 6 (“JPML” or “Panel”) to transfer and consolidate in this judicial district all existing and
 7 subsequently filed antitrust actions related to the claims alleged in the Complaint (“JPML
 8 Motion”). The JPML Motion is currently pending in *In re Graphics Processing Units Antitrust*
 9 *Litigation*, MDL Docket No. 1826.

10 4. On January 16, 2007, AMD and Nvidia filed a response with the JPML supporting
 11 consolidation and transfer of these actions to the Northern District of California, San Jose
 12 Division, or, in the alternative, in the Northern District of California, San Francisco Division. To
 13 date, every party responding to the JPML Motion has supported consolidation and transfer in
 14 either the Northern or Central Districts of California. No party has opposed consolidation and
 15 transfer.

16 5. Some of the plaintiffs in the potentially related antitrust actions and all Defendants
 17 have requested that the Panel hear oral argument on the JPML Motion. The parties expect that if
 18 the Panel does hear oral argument, the hearing will occur in March 2007. The parties agree that,
 19 at some point subsequent to that hearing, the JPML is likely to order transfer and consolidation of
 20 these actions.

21 6. In light of these facts, Plaintiff and Defendants stipulated on December 20, 2006 to
 22 extend the time for Defendants to respond to the Complaint to 30 days after (1) the order
 23 resolving the JPML motion and (2) the filing and service of any subsequent consolidated
 24 complaint, without prejudice to the right of Nvidia or AMD to seek additional time to answer or
 25 otherwise respond to the Complaint for good cause shown.

26 7. Given the likelihood of a March 2007 hearing date before the JPML, the dates set
 27 forth in the Case Management Scheduling Order entered on December 4, 2006, including the
 28

1 deadlines imposed by Federal Rules of Civil Procedure 26, Local Rule 16, and ADR Local Rule
 2 3.5, will come to pass before the JPML acts on the pending motion.

3 8. Continuing the dates set forth in the December 4, 2006 Case Management
 4 Scheduling Order would avoid the expenditure of unnecessary judicial resources until it is
 5 determined whether this action will remain pending in this Court. It would also ensure
 6 consistency in pretrial rulings and be convenient for the parties, including Plaintiff.

7 9. Accordingly, the parties hereby stipulate to and respectfully request that the Court
 8 order a continuance of the dates set forth in the December 4, 2006 Case Management Scheduling
 9 Order. The affected dates include the deadline to meet and confer and file joint ADR documents
 10 (currently February 20, 2007); the deadline to complete Initial Disclosures, the Joint Case
 11 Management Statement, and the Rule 26(f) Report (currently March 6, 2007); and the Initial Case
 12 Management Conference (currently March 13, 2007).

13 10. The parties request that the Court continue the above referenced schedule as
 14 follows: (1) the deadline to meet and confer and file joint ADR documents – June 19, 2007; (2)
 15 the deadline to complete Initial Disclosures, the Joint Case Management Statement, and the Rule
 16 26(f) Report – July 3, 2007; and the Initial Case Management Conference – July 10, 2007. Such
 17 a continuance will allow this matter to move forward promptly in the event that the JPML Motion
 18 is denied and further proceedings before this Court are necessary.

19 11. Except as described in Paragraph 6, the parties have sought no previous
 20 modification of the timing of any event or deadline set by the Court.

21

22

23

24

25 ///

26 ///

27 ///

28

12. The parties agree to notify the Court promptly when the Panel rules on the JPML Motion.

Respectfully submitted,

Dated: January 29, 2007

COOLEY GODWARD KRONISH LLP

By: _____ /s/
James Donato (146140)

Dated: January 29, 2007

LATHAM & WATKINS LLP

By: _____ /s/
Charles H. Samel (182019)

Attorneys for Defendants
ATI TECHNOLOGIES, INC. and
ADVANCED MICRO DEVICES, INC.

Dated: January 29, 2007

FURTH LEHMANN & GRANT LLP

By: _____ /s/
Jon T. King (205703)

1 FILER'S ATTESTATION:

2 Pursuant to General Order No. 45, § X(B) regarding signatures, I attest under penalty of
3 perjury that the concurrence in the filing of this document has been obtained from its signatories.

4 Dated: January 29, 2007

5 By: _____ /s/
James Donato

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[PROPOSED] ORDER

Pursuant to the stipulation of the parties, all dates set forth in the December 4, 2006 Case Management Scheduling Order are hereby continued as follows: (1) the deadline to meet and confer and file joint ADR documents will be June 19, 2007; (2) the deadline to complete Initial Disclosures, the Joint Case Management Statement, and the Rule 26(f) Report will be July 3, at 10:00am 2007; and (3) the Initial Case Management Conference will be July 10, 2007. The parties are ordered to notify the Court promptly when the Judicial Panel on Multidistrict Litigation rules upon the motion for consolidation pending in MDL Docket No. 1826, *In re Graphics Processing Units Antitrust Litigation*.

Pursuant to stipulation, it is so ordered.

Dated: January 30, 2007

